

Stricken language would be deleted from and underlined language would be added to the law as it existed prior to this session of the General Assembly.

Act 2223 of the Regular Session

1 State of Arkansas

As Engrossed: H3/30/05 H4/5/05

2 85th General Assembly

A Bill

3 Regular Session, 2005

HOUSE BILL 2657

4
5 *By: Representatives Petrus, Bolin, Dickinson, Rankin, Thyer, Abernathy, Adams, Anderson, Blount,*
6 *Boyd, Clemons, Cooper, Davis, Dunn, L. Evans, Everett, Flowers, George, Hardwick, Kenney, Key,*
7 *Maloch, J. Martin, Maxwell, McDaniel, Nichols, Norton, Overbey, S. Prater, Sample, Scroggin, Sullivan,*
8 *Thompson, Wills, Wood, Wyatt*

9 *By: Senators Higginbotham, Bryles, Glover, J. Jeffress, Laverty, Luker, Malone, Miller, Salmon, T.*
10 *Smith, Trusty, Whitaker, Wooldridge*

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12
13 **For An Act To Be Entitled**

14 AN ACT TO PROVIDE A TAX *REFUND* FOR THE SALE OF
15 BIODIESEL MIXTURE; AND FOR OTHER PURPOSES.

16
17 **Subtitle**

18 AN ACT TO PROVIDE A TAX *REFUND* FOR THE
19 SALE OF BIODIESEL MIXTURE.

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21
22 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:

23
24 SECTION 1. Arkansas Code § 15-4-2802 is amended to read as follows:
25 15-4-2802. Definitions.

26 As used in this subchapter:

27 (1) "Biodiesel fuel" means a ~~renewable, biodegradable, mono~~
28 ~~alkyl ester combustible liquid fuel derived from agricultural plant oils or~~
29 ~~animal fats that meet the American Society for Testing and Material~~
30 ~~Specification D6751-02 for biodiesel fuel, or B100, blend stock for~~
31 diesel fuel substitute
32 produced from nonpetroleum renewable resources that meets the registration
33 requirements for fuels and fuel additives established under the Energy Policy
34 Act of 1992, 42 U.S.C. §§ 13211 – 13219, as in effect on January 1, 2005;

35 (2) "Biodiesel mixture" means a mixture of biodiesel fuel and



1 undyed, clear distillate special fuel that is suitable for use in motor
2 vehicles on Arkansas highways and determined without regard to any use of
3 kerosene that is:

4 (A) Sold by the supplier producing biodiesel mixture to
5 any person for use as a fuel; or

6 (B) Used as a fuel by the supplier producing the biodiesel
7 mixture;

8 ~~(2)~~(3) "Biodiesel producer" means a business located in the State
9 of Arkansas that uses agricultural crops, agricultural residues, or waste
10 products, excluding recycled oils, to manufacture biodiesel fuels;

11 ~~(3)~~(4) "Commission" means the Alternative Fuels Commission; and

12 ~~(4)~~(5) "Supplier" means any person who:

13 (A) Is customarily in the wholesale business of offering
14 distillate special fuels or liquefied gas special fuels for resale or use to
15 any person in this state; and

16 (B) Makes bulk sales of fuel.

17
18 SECTION 2. Arkansas Code § 15-4-2803, pertaining to *tax benefits* for
19 biodiesel suppliers, is amended to add a new subsection to read as follows:

20 (e)(1) A supplier is entitled to a refund of all or a portion of the
21 tax imposed on the supplier under §§ 26-56-201, 26-56-502, and 26-56-601.

22 (2) The amount of the refund authorized in subdivision (e)(1) of
23 this section shall be equal to fifty cents (\$0.50) for each gallon of
24 biodiesel fuel that is used by the supplier to produce a biodiesel mixture
25 that contains not more than two percent (2%) biodiesel and that is for sale
26 by the supplier or for use by the supplier in a trade or business.

27 (3) The refund allowed under this subsection (e) shall first be
28 available to a supplier when:

29 (A) One (1) or more biodiesel producers:

30 (i) Signs a financial incentive agreement with the
31 Department of Economic Development;

32 (ii) Is approved by the Alternative Fuels Commission
33 as a biodiesel producer with biodiesel fuel production capacity to produce at
34 least one million gallons (1,000,000 gal.) of biodiesel fuel in a twelve-
35 month period;

36 (iii) Certifies that it will produce biodiesel fuel

1 meeting appropriate federal and state standards; and

2 (iv) Begins production of biodiesel fuel; and

3 (B) The supplier is approved as a biodiesel supplier by
4 the Director of the Department of Finance and Administration in accordance
5 with rules promulgated by the Director.

6 (4) A supplier may file a claim for refund for the sale or use
7 of biodiesel mixture that occurred on or after the date that all of the
8 requirements of subdivision (e)(3) of this section have been met.

9 (5)(A) A claim for refund under this subsection (e) shall be
10 filed quarterly, and in no event shall a claim be filed later than one (1)
11 year after the sale or use of the biodiesel mixture under subdivision (e)(2)
12 of this section.

13 (B) The total amount of refunds paid to a supplier during
14 a calendar year shall not exceed the tax liability of the supplier under
15 §§ 26-56-201, 26-56-502, and 26-56-601 during the calendar year.

16 (C) Except as otherwise provided in this subsection (e), a
17 claim for refund under this subsection (e) shall be subject to the Arkansas
18 Tax Procedure Act, § 26-18-101 et seq.,

19 (6) The Director of the Department of Finance and Administration
20 shall promulgate rules for the administration and enforcement of this
21 subsection (e).

22 (7) This subsection (e) shall expire on June 30, 2007.

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24 SECTION 3. EMERGENCY CLAUSE. It is found and determined by the
25 General Assembly of the State of Arkansas that petroleum is a nonrenewable
26 energy source; that encouraging the use of nonpetroleum-based fuel is vital
27 for the future of the environment and the economy; that this act promotes the
28 use of other fuels; and that it is necessary that this act become effective
29 on July 1, 2005, for the effective administration of the benefits provided in
30 this act. Therefore, an emergency is declared to exist and this act being
31 necessary for the preservation of the public peace, health, and safety shall
32 become effective on July 1, 2005.

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34 /s/ Petrus, et al

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APPROVED: 4/13/2005